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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,642	09/05/2003	Robert H. Ashton	US20020383	8104
7590 11/01/2007 WHIRLPOOL PATENTS COMPANY MD 0750 Suite 102 500 Renaissance Drive St. Joseph, MI 49085			EXAMINER RIGGLEMAN, JASON PAUL	
			ART UNIT 1792	PAPER NUMBER
			MAIL DATE 11/01/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/656,642

Applicant(s)

ASHTON ET AL.

Examiner

Jason P. Riggelman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 20-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-11, 13-19, 27, 28 and 30-39 is/are rejected.
- 7) ☒ Claim(s) 12 and 29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Status of Claims

1. Applicant's reply filed on 8/6/2007 is acknowledged. Current pending claims are 1-39. Claims 1 and 27 are amended. Claims 5 and 20-26 are withdrawn.

Response to Arguments

2. Applicant's arguments, see Remarks, filed 8/6/2007, with respect to the amended claims 1 and 27 have been fully considered and are not persuasive.

3. The applicant has amended claims 1 and 27 to include the limitations of a filter provided external to the wash chamber; wherein the filter chamber has a side wall having a nonlinear portion; and the filter element has a substantially vertical orientation. The applicant concentrates arguments on the limitation of the filter chamber having one side wall having a non-linear portion stating that the applied art does not teach this limitation. Examiner disagrees – it can be seen that in Figs. 2 & 5 that the side wall is curved at a location. Also, see the rejection of claims 2 and 4, below, which previously addressed this limitation. The newly added limitations, which were not argued are addressed in the rejections below.

Claim Rejections - 35 USC § 103 or § 102

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which

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said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 6-11, 19 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hoffman (US Patent No. 5320120).

6. Hoffman discloses a dishwasher having a wash chamber (17), pump (19), spray arm (26), filter chamber in a wall (32), inlet (30), porous filter element (31) which also has the outlet for the fluid to flow back into the wash chamber (col. 3, ll. 65-col. 4, ll. 5). It can be seen that the filter is provided external to the wash chamber – (Note: the liquid flows through the filter element 31 as indicated by the arrow in Fig. 2 – the liquid flows through the filter element external to the wash chamber). The floor of the wash chamber (16) is lower than the filter chamber and therefore is part of the wall region. However, if this is not the case, one of ordinary skill in the art would easily foresee the relocation of parts and the placement of such a filtering chamber in the wall as well. Rearrangement of parts was held to have been obvious, *In re Japikse* 86 USPQ 70 (CCPA 1950). Hoffman also discloses the spray arm has a nozzle positioned to spray wash liquid on the opening and the filter area is located in the rear of the chamber (Fig.

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2, Item 38). The filter element is "substantially" vertical – it is estimated to be 45°, from Fig. 2, which is "substantially" vertical.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman in view of Price (2003/0213505).

9. Hoffman discloses the dishwasher in the above 102 rejection. Hoffman does not specifically disclose the wall portion curving inwardly but does disclose gathering surfaces. Price discloses the walls to the chamber curving inwardly. At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Hoffman with Price for the benefit of concealing the filtered material.

10. Claims 16, 17, 27, 31-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman in view of Applicants specification.

11. Hoffman discloses the apparatus described above in the 102(b) rejection, but does not specifically disclose a sump screen, strainer or sensors detecting the liquid level of the filter chamber. Applicant's specification describes a "...screen can have a removable strainer... as is well known in the art."

(Paragraph 26) The specification also describes, "[liquid level] sensors 107, 107'

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can be optical sensors, turbidity sensors or pressure sensors as are well known in the art... US Patent 6909743 and US Patent 6103017, each incorporated by reference, disclose the use of pressure sensors to automatically initiate a filter purge cycle in dishwashers." (Paragraph 36) Sump screens are also well known in the art and would be within the level of one of ordinary skill to foresee their use in Hoffman. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Hoffman with a strainer and filter level indicating means, as they are known improvements and accessories to dishwashers.

12. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman in view of Sargeant (US Patent No. 5743281).

13. Hoffman discloses the dishwasher shown above in the 102 rejection. Hoffman does not specifically disclose the dishwasher is a drawer type.

Sargeant discloses dishwashers of a drawer type. Both of these types of dishwashers are common and one of ordinary skill would immediately foresee that the structure shown by Hoffman could be incorporated into a drawer type of dishwasher. At the time of the invention, it would have been obvious to one of ordinary skill in the art to combine Hoffman's filtering and dishwashing structure with a drawer type of dishwasher as they are very common and because of the additional convenience that these dishwashers provide.

14. Claims 28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman and Applicant's specification, as applied to claims 17, 27, 28, 31-39 above, and further in view of Thies (US Patent No. 5,909,743).

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15. Hoffman and Applicant's specification disclose the dishwasher shown above in the 103 rejection. They do not specifically disclose a pump for the filter chamber. Thies discloses a pump for the filter chamber (54) along with a pump for draining the washing chamber (34). At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Hoffman and Applicant's spec. with the pump arrangement shown by Thies for the benefit of a flow control of the filtered material.

16. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman in view of Thies (US Patent No. 5,909,743).

17. Hoffman discloses the dishwasher shown above in the 102 rejection. Hoffman also discloses a pump, which draws water from the wash chamber to drain (41). Hoffman does not specifically disclose a pump for the filter chamber. Thies discloses a pump for the filter chamber (54) along with a pump for draining the washing chamber (34). At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Hoffman with the pump arrangement shown by Thies for the benefit of a flow control of the filtered material.

Allowable Subject Matter

18. Claims 12 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art does not teach, suggest or disclose the filtering

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system in the wall of the dishwasher connected with a selector valve having a first inlet connected to the filter drain and a second inlet connected to the wash chamber drain, an outlet connected to the pump, and one or more valve elements and actuators for selectively closing and opening the inlets.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mori (US Patent No. 3183120) teaches a dishwashing machine having a filter in the side of the wash chamber.

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Riggleman whose telephone number is 571-272-5935. The examiner can normally be reached on M-F, 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Riggleman
Examiner
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JPR

A handwritten signature in black ink, appearing to read 'Michael Barr', with a long horizontal flourish extending to the right.

MICHAEL BARR
SUPERVISORY PATENT EXAMINER